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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,657	01/08/2002	Jack L. Hoffa	12,335	1953

7590 02/18/2004
William W. Haefliger
201 So. Lake Ave., #512
Pasadena, CA 91101

EXAMINER

TRINH, MINH N

ART UNIT	PAPER NUMBER
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3729

10

DATE MAILED: 02/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/044,657

Applicant(s)

HOFFA, JACK L.

Examiner

Minh Trinh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 46-61 is/are pending in the application.
- 4a) Of the above claim(s) 56-60 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 46-55 and 61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION***Election/Restrictions***

1. Applicant's election with traverse of Group I (claims 46-55 and 61) in Paper No. 9 is acknowledged. The traversal is on the ground(s) that the examiner has not established a prima facie case of serious burden of examination of the inventions of Groups I and II together. This is not found persuasive because the inventions of Group I and II each have a separate status in the art and clearly have a separate field of search, and the search required for Group I is not required for Group II (see reasons set forth in prior Office Action, paragraph 3). Moreover, these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper. In accordance with MPEP §803, the examiner has demonstrated that the inventions of Group I and II are each independent or distinct as claimed and a serious burden would be placed on the examiner as discussed above. The requirement is still deemed proper and is therefore **made FINAL**. A complete reply to this Office Action must include cancelation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

2. Thus, claims 56-60 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention (Group II), there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 9.

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An Office Action on the merits of elected claims 47-55 and 61 follows.

Claim Objections

3. "In apparatus" (claims 47-55 and 61, line 1) should be changed to: --The apparatus--, as so to reflect the claim formats (i.e., dependent claim).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

5. Claims 46-55 and 61 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The following are examples:

a) "the combination" (claims 46 and dependent claims 47-55 and 61, lines 1-2)

lack proper antecedent basis, it appears the preamble directed to an apparatus.

Therefore, "the combination" should be changed to: -- the apparatus--.

b) it is unclear whether the limitation recites "endless belts" (claim 46, line 13-14) is having the same structure as "endless conveyors" recited in line 5 of claim 46.

c) "there being" (claim 47, lines 5, 12, claim 49, line 6, 13 and similar claim language found in claims 51-54 and 61) not positive structure limitations and should be deleted.

Claim Rejections - 35 USC § 103

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6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 46, 48-49, 51-55 and 61 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer (US 3,612,111) in view of Sipusic et al (US 3,942,221).

Meyer discloses the claimed apparatus for processing wire 11 including conveyors for transferring wire, the conveyors having first upper and second lower endless conveyors 27 and 29 engageable with opposite sides of the wire 11 (as shown in Fig. 1, and the discussed at col. 2, lines 53-54, and col. 3, lines 13-15), wherein the conveyors (as shown in Fig. 1) that includes endless belts 27, 29 having stretches (means of stretches 45 and 51) which is extending in the direction of the wire 11 displacement at opposite sides of the wire 11, and an associated cutting device 19 that being adjacent to the first conveyors (see Fig. 1). Meyer does not teach the associated second upper and lower conveyors that are being spaced apart from the first conveyors. Sipusic et al teach the apparatus having two pair of conveyors including a second upper and lower conveyors 19's for transferring and processing material such as tubing (see Fig. 1, and the discussed at col. 4, line 25 and 44). Therefore, it would have been obvious to one ordinary skill in the art, at the time of the invention to modify the apparatus of Meyer by employing the teaching of Sipusic et al 's a second upper and lower conveyors for displacing and processing the associated material in order to obtain

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a desired multiple conveyors for various known benefits including that as described above. Note that there is no structural difference between the claimed invention and the prior art therefore the prior art structure is capable of performing the intended use as recited in the present claims such as "for processing wire" (see claim 46, line 1).

As applied to claim 48, Meyer discloses the first upper and lower assemblies 17's (see Fig. 1, col. 2, lines 65-66).

As applied to claims 49 and 51, Meyer discloses the frame 15 including guide 49 associated the at least one assemblies therefrom (see Fig. 1).

Limitations of claims 52-55 are also met as set forth above.

As applied to claim 61, Meyer discloses the recites limitation of claim 61 includes one spring 51 for exerting yieldable force to urge at least one of the first conveyors toward the other and toward the wire (see Fig. 1).

Allowable Subject Matter

8. Claims 47 and 50 would be allowable if rewritten to overcome the objection and the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: That the prior art does not teach the limitations as described in claim 47, references (e-f) and that as described in claim 50, under sections (e-h). These limitations as described above in combination with other limitations in the claims are seem to be overcome the prior art references.

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Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art teaching of conveyor system for processing a work piece including cutting and transferring.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh Trinh whose telephone number is (703) 305-2887. The examiner can normally be reached on Monday -Thursday 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (703) 308-1789. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Patent Examiner Group 3700

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2/12/2004